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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,444	07/31/2001	Paul Dennis Stultz	M-11710 US	4212

7590

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David L. McCombs  
Haynes and Boone, LLP  
901 Main Street  
Suite 3100  
Dallas, TX 75202-3789

EXAMINER

PYZOCHA, MICHAEL J

ART UNIT

PAPER NUMBER

2137

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/919,444

Applicant(s)

STULTZ ET AL.

Examiner

Michael Pyzocha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,14-24 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14-24 and 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1, 3-12, 14-24, 26-32 are pending.
2. Amendment filed 05/09/2005 has been received and considered.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-12, 14-24, 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over NEC and further in view of Microsoft Computer Dictionary (Third Edition, 1997) (hereinafter Microsoft).

As per claims 1, 12, 23-24, NEC discloses a computer system, method and computer program product comprising: a processor; a memory coupled to the processor, the memory storing a pre-selected input characteristic; a stored password; instructions causing the processor to compare a first input entered by the user to the pre-selected input characteristic;

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instructions causing the processor to ignore an input during a power-on self test procedure unless the first input matches the pre-selected input characteristic (see page 2-18); instructions causing the processor to prompt a user of the computer system for a password when the first input matches the pre-selected input characteristic; instructions causing the processor to compare a password entered by the user to the stored password; and instructions causing the processor to process inputs during the power-on self test procedure subsequent to the first input when the password entered by the user matches the stored password (see page 2-29) and masking a processor from the inputs from an input/output device during power-on self test; and the reception of the input that corresponds to the predetermined data is performed by the processor (see page 2-18).

NEC fails to disclose the memory further stores instructions causing the processor to process inputs other than the first input if the password entered by the user is entered within a pre-specified period of time after the user is prompted.

However, Microsoft teaches this method of a timeout (see page 469).

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At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Microsoft's method of a time out for the password of the NEC system.

Motivation to do so would have been to protect it against crackers (see Microsoft page 469).

As per claims 3-4, 14-15, the modified NEC and Microsoft system discloses the data corresponds to an F2 key (see page 2-18).

As per claims 5, 16, 26, the modified NEC and Microsoft system discloses the processing of inputs other than the first input enables the user to access a system setup procedure (see page 2-18).

As per claims 6, 17, 27, the modified NEC and Microsoft system discloses the processing of inputs other than the first input enables the user to request boot functions (see page 2-25).

As per claims 7, 18, 28, the modified NEC and Microsoft system discloses the processing of inputs other than the first input enables the user to reboot the computer system (see page 2-9).

As per claims 8, 19, 29, the modified NEC and Microsoft system discloses the processing of inputs other than the first

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input enables the user to switch off a power supply of the computer system (see page 2-8).

As per claims 9, 20, 30, the modified NEC and Microsoft system discloses the processing of inputs other than the first input enables the user to access an Option Read Only Memory utility (see pages 2-18 through 2-33).

As per claims 10, 21, 31, the modified NEC and Microsoft system discloses the processing of inputs other than the first input enables the user to halt a power-on self-test function (see page 2-17 and entering the setup halts the POST).

As per claims 11, 22, 32, the modified NEC and Microsoft system discloses the processing of inputs other than the first input enables the user to omit a power-on self-test function (see rejection of claims 8, 19, 29 where it is clear that powering the system off will omit the POST).

#### ***Response to Arguments***

5. Applicant's arguments filed 05/09/2005 have been fully considered but they are not persuasive. Applicant argues: NEC fails to disclose the timeout; the combined references fail to teach the desirability of the combination; and the combination is based on hindsight.

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Regarding Applicant's argument that NEC fails to disclose the timeout, NEC was not relied upon to teach the timeout; the Microsoft reference was relied upon and this is reflected by the above rejections.

Regarding Applicant's Argument that the combined references fail to teach the desirability of the combination, as seen in Microsoft page 469 the combination protects a system against crackers.

Regarding Applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

#### **Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

A handwritten signature in black ink that reads "Andrew Caldwell". The signature is written in a cursive, flowing style.

**ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER**